**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC**

Plaintiff

v.

**CEMEX PUERTO RICO; CANOPY ECOTERRA CORP.; XYZ INSURANCE COMPANIES**

Defendants

**CASE NO. 07-1658 (JAF)**

**REPORT SUBMITTAL BY CANOPY ECOTERRA CORP. (Dkt. No. 7)**

TO THE HONORABLE COURT:

COMES NOW, Defendant CANOPY ECOTERRA CORP. (hereinafter "ECOTERRA") through the undersigned counsel, reserving all defenses, including improper service of process and lack of personal jurisdiction, and very respectfully state and pray:

1. This Honorable Court scheduled a hearing for August 10, 2007, to elucidate the specific allegations contained in certain "Motion for Temporary Restraining Order" (Dkt. No. 4) filed by plaintiff, American Waste Management & Recycling, LLC ("AWMR").

2. During said hearing the Court requested the parties to meet in order to resolve the pending controversy. Accordingly, the parties met on that same date and held a follow-up

Dockets.Justia.com

conference call during today's date in an attempt to resolve the differences.

3. To that effect, Ecoterra respectfully informs that all its efforts to satisfactorily resolve all controversies were not successful. The main factor separating Ecoterra from AWMR's position is that Ecoterra has objections and opposes that the material that is currently inside six (6) containers be extracted from the CEMEX facility. However, these six (6) containers may be emptied and the containers can be taken out of the CEMEX premises.

4. Ecoterra has no objections or reservations in permitting the removal of all equipment belonging to plaintiff or third parties that is currently sitting in CEMEX's facility such as: two (2) empty containers, one (1) office trailer, one (1) back haul, one (1) sky track, two or three (2 or 3) bobcats, one (1) digger, along with other ancillary material.

5. The above notwithstanding, Ecoterra has proposed to plaintiffs concluding all matters pertaining the current allegations of their complaint, as well as any that would be part of a counterclaim, settling all matters under the following general guidelines:

i. Plaintiff can remove all materials consisting of steel and iron that may be present in the six (6) containers, as well as dividing equally with

Ecoterra the materials consisting of copper and aluminum inside the same containers.

ii. Any material on the floor in the surrounding area consisting of iron and steel can also be retrieved by plaintiff, which would be enough to fill the eight (8) containers currently on-site.

iii. Ecoterra is to receive payment for the extracted material inside the containers, in accordance to the agreement it had with plaintiff.

iv. The parties, both AWMR and Ecoterra, will sign a mutual general waiver and release of all causes of action both parties have or may have.

WHEREFORE, Ecoterra respectfully submits this Report as it was requested by this Honorable Court during the hearing held on August 10.

I hereby certify that on August 13, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

**RESPECTFULLY SUBMITTED.** At San Juan, Puerto Rico, this 13th day of August, 2007.

S/ ANTONIO VALIENTE
ANTONIO VALIENTE, USDC-PR NO. 213906

NIGAGLIONI & FERRAIUOLI LAW OFFICES, P.S.C.
ATTORNEYS FOR CANOPY ECOTERRA CORP.
P.O. BOX 195384
SAN JUAN, PUERTO RICO 00919-5384
TEL: 787-765-9966
FAX: 787-751-2520
notices@nf-legal.com
antonio@nf-legal.com